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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
MICROSOFT CORPORATION,)
)
Defendant.)
)
_____)

No. CIV 98-1232 (TPJ)

CONFIDENTIAL

60-7371-0014
DEPARTMENT OF JUSTICE
AUG 28 1998
ANTITRUST DIVISION
SAN FRANCISCO OFFICE

DEPOSITION OF BILL GATES, a witness

herein, taken on behalf of the plaintiffs at
9:09 a.m., Thursday, August 27, 1998, at One
Microsoft Way, Redmond, Washington, before Kathleen
E. Barney, CSR, pursuant to Subpoena.

REPORTED BY:
Kathleen E. Barney,
CSR No. 5698

Katherine Gale
CSR No. 9793

Our File No. 1-49005

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Q. Has Microsoft done research to determine which distribution channels are most effective in delivering browsers that are actually used by people?

A. I think somebody did a survey to ask people where they get their browser at some point.

Q. Do you have any recollection who did that survey?

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4 MR. HOUCK: I'd like to mark as
5 ~~Gov. Trial Ex. 788~~ 204 Exhibit 348 a memorandum -- or rather an e-mail --
6 from Kumar Mehta to Brad Chase and Yusuf Mehdi dated
7 March 27, 1997.

8 (The document referred to was marked
9 by the court reporter as ~~Gov. Trial Ex. 788~~ 204 Government Exhibit 348 for
10 identification and is attached hereto.)

11 Q. BY MR. HOUCK: Is this an example of
12 the type of memorandum you've seen in which Microsoft
13 has endeavored to determine which distribution
14 channels are most effective in distributing Web
15 browsers?

16 A. No.

17 Q. What position in the company did
18 Mr. Mehta have in March of 1997?

19 A. I don't know.

20 Q. Do you know if one of his
21 responsibilities was market research?

22 A. No. I mean I'm not copied on this. I
23 mean just looking at it -- and I certainly have no
24 recollection of seeing this. It also seems to
25 contradict some other things that I have seen.

1 Q. The e-mail reads as follows: "Bob
2 Foulon is gathering data for a John Roberts meeting
3 with Bill Gates tomorrow. Apparently they are going
4 to discuss whether IE and Memphis should be bundled
5 together."

6 Do you recall such a meeting with
7 Mr. Foulon and Mr. Roberts?

8 A. No.

9 Q. Do you recall Mr. Foulon or Mr. Roberts
10 sharing with you market research data with respect to
11 how people get their browsers?

12 A. I don't know Bob F-o-u.

13 Q. Do you understand that is a reference
14 to Bob Foulon?

15 A. I don't know Bob Foulon. I don't know
16 anyone whose name is Bob F-o-u anything.

17 Q. Do you know John Roberts?

18 A. Yes.

19 Q. What position does he have with
20 Microsoft?

21 A. He at this time -- is that what you're
22 interested in?

23 Q. Yes.

24 A. At this time I think he works for Brad
25 Chase.

1 Q. Did you have a meeting that you recall
2 with Mr. Roberts and/or Mr. Chase in or about March
3 of 1997 where you talked about the results of market
4 research to determine how people obtained Internet
5 Explorer?

6 A. I don't remember.

7 Q. The e-mail I quoted attaches another
8 e-mail dated March 27, 1997, which says in the first
9 two paragraphs, which I'll read, "Bob, here is some
10 information on how people get and use IE that might
11 help you guys. My feeling, based on all the IE
12 research we have done, is that it is a mistake to
13 release Memphis without bundling IE with it. IE
14 users are more likely than other browser users to get
15 it with their computers. Overall, 20% of people who
16 use IE at home obtained it with their computer; and
17 24% of those using IE at work got it with their
18 computer. Effectively we would be taking away the
19 distribution channel of almost a quarter of all IE
20 users."

21 Do you have any understanding as to the
22 accuracy of the numbers he cites here with respect to
23 the number of people using IE who obtained it with
24 their computer?

25 A. I have no idea what we're talking about

1 in terms of what kinds of users he surveyed or looked
2 at. So no, I have no opinion on it whatsoever. I
3 mean who knows.

4 Q. ~~Do you have any reason to believe the~~
5 information he reports here is inaccurate?

6 A. I don't have enough of a context to
7 even state an opinion. It doesn't even say what kind
8 of users or anything.

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23 Q. BY MR. BOIES: Mr. Gates, let me show
24 you a document marked as ^{Gov. trial exhibit 55} ~~Government Exhibit 390~~. The
25 first message here purports to be a message to you

1 and Mr. Maritz and Mr. Allchin on February 24, 1997
2 at 11:07 p.m. Do you see that?

3 A. Yes.

4 (The document referred to was marked
5 by the court reporter as ^{Gov. Trial Ex. 55} ~~Government Exhibit 390~~ for
6 identification and is attached hereto.)

7 Q. BY MR. BOIES: And it talks about a
8 focus group report and it says that most of the
9 people in the focus group were Navigator users. And
10 then it goes on to say about those Navigator users,
11 "They said they would not switch, would not want to
12 download IE 4 to replace their Navigator browser.
13 However, once everything is in the OS and right
14 there, integrated into the OS, 'in their face' so to
15 speak, then they said they would use it because there
16 would be no more need to use something 'separate.'"

17 Do you see that?

18 A. Yes.

19 Q. Do you recall being told that in or
20 about February, 1997?

21 A. No.

22 Q. Let me ask you to turn to the fifth
23 page of this exhibit. And this is an original
24 message dated February 24, 1997 at 10:38 a.m. also
25 relayed into the Memphis focus group's report.

1 A. It's an enclosure to the message above.
2 Q. It's an enclosure to the message above.
3 That is what you have is first a message dated
4 February 24, 1997 at 11:07 p.m. that went to you and
5 Mr. Maritz and Mr. Allchin, and then you have another
6 message that was an enclosure that went to you and
7 others; correct?
8 A. Yes.
9 Q. So you would have received the 'second
10 message when you received the message that was
11 addressed to you; correct?
12 A. If I did, which I told you I don't
13 remember, but I have no reason to doubt that I did.
14 Q. Right. The next to last paragraph on
15 the fifth page of the exhibit, the one that ends with
16 the Microsoft document production stamp 8179, do you
17 have that page?
18 A. Yes.
19 Q. The next to last paragraph of this
20 material that was sent to you on February 24th, '97
21 if in fact it was, on page 5 says "It seems clear
22 that it will be very hard to increase browser market
23 share on the merits of IE 4 alone. It will be more
24 important to leverage the OS asset to make people use
25 IE instead of Navigator."

1 Do you see that?

2 A.

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21 O. BY MR. BOIES: Let me try to break the
22 question down. First, do you recall being told in
23 any context in or about February of 1997, "It seems
24 clear that it will be very hard to increase browser
25 market share on the merits of IE 4 alone. It will be

1 more important to leverage the OS asset to make
2 people use IE instead of Navigator"?
3 A. Those words?
4 Q. Let me begin with that. Do you recall
5 being --
6 A. No.
7 Q. -- communicated those words in or about
8 February of 1997?
9 A. I said no.
10 Q. Do you recall being communicated those
11 words at any time, whether in or about February of
12 1997 or any other time?
13 A. Isn't that what I just answered?
14 Q. Perhaps you did. I thought the first
15 answer related to February, 1997, but if you're
16 telling me you don't recall ever being told that, I
17 just want that clarified for the record.
18 A. Those words, no.
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18 Q. BY MR. BOIES: This document that
19 purports to have gone to you, sir, says "It seems
20 clear that it will be very hard to increase browser
21 market share on the merits of IE 4 alone. It will be
22 more important to leverage the OS asset to make
23 people use IE instead of Navigator."

24 Do you recall ever being told or ever
25 receiving a communication that said in substance what

1 is reflected there?

2 A. No.

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